IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14271 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JETHIBEN DUDHABHAI DABHI

Versus

SUPDT AND GYNAEC SURGEON

Appearance:

1. Special Civil Application No. 14271 of 1993

MR NR SHAHANI for Petitioner No. 1

MR. N.D.GOHIL, AGP for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 15/10/2003

ORAL JUDGEMENT

Heard learned advocate Mr. N.R.Shahani for petitioner and learned AGP Mr. N.D.Gohil appearing on behalf of respondents.

2. In the present petition petitioner has challenged

the award passed by the Labour Court, Ahmedabad in Reference No. 1257 of 1990 dated 22.5.1992 wherein Labour Court has partly allowed the Reference with a direction to the respondents to reinstate the petitioner in service with 50% back wages of interim period. Learned advocate Mr. Shahani has submitted that this award was challenged by the respondents before this Court where the petition was dismissed and ultimately SLP filed by the respondent is also dismissed. The present petition is filed for denial of 50% back wages of interim period. Mr. Shahani having the grievance that reinstatement include the continuity of service but absence of that specific observation and direction, the service of the petitioner has been considered by the respondent as a fresh employee. He also having the grievance that service of the petitioner is not regularised though petitioner is working since many years and respondents are also not providing the service book and not paying weekly holiday to the petitioner and treated the petitioner as part time. Therefore, he submitted that in respect to the grievance about not granting the continuity of service, regularisation and not providing service book to the petitioner and also not paying weekly off, petitioner will make a detailed representation to the respondents and respondents may be directed to examine the grievance of the petitioner and to pass appropriate orders within some reasonable time.

3. Learned AGP Mr. N.D.Gohil appearing on behalf of the respondents has submitted that as and when the representation will be received by the respondents they will examine the same and pass appropriate orders in accordance with law.

4. I have considered the submissions made by both the learned advocates. The law on this subject is settled that once the reinstatement has been granted while setting aside the termination order, that reinstatement includes the continuity of service and for that there is no separate order or direction is required to be issued by the Labour Court. But, however, respondents are not treating the services of the petitioner continuous, for that, petitioner will make a detailed representation to the respondents within a period of two months from the date of receiving the service book from the respondents. The said representation will be made to the highest authority of the respondent. It is hoped that respondent will provide the service book to the petitioner within a period of 15 days from the date of receiving the copy of this order. However, learned AGP has submitted that if the department

wants any information or detail from the petitioner, then they will ask the petitioner and the petitioner shall have to furnish the same to the respondents.

5. In view of the facts stated above, it is directed to the respondents to consider the representation of the petitioner and examine the grievance of the petitioner and pass appropriate orders in accordance with law within a period of three months from the date of receiving the representation from the petitioner. It is, however, made clear that if any adverse decision is taken by the respondents then it is open for the petitioner to challenge the same before the appropriate forum in accordance with law.

6. In view of the above observations and directions present petition is disposed of. Rule is discharged. No order as to costs.

(H.K.Rathod,J)

Jayanti*